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on signature pages]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

TECHNOLOGY PROPERTIES LIMITED
LLC and MCM PORTFOLIO LLC,

Plaintiffs,

v.

CANON INC., et al.,

Defendants.

Civil Action No. 14-03640 CW

**DEFENDANTS' ADMINISTRATIVE
MOTION OBJECTING TO PER
CAPITA SPLIT OF TECHNICAL
ADVISOR FEE**

TECHNOLOGY PROPERTIES LIMITED
LLC and MCM PORTFOLIO LLC,

Plaintiffs,

v.

FALCON NORTHWEST COMPUTER
SYSTEMS, INC.,

Defendant.

Civil Action No. 14-03641 CW

**DEFENDANTS' ADMINISTRATIVE
MOTION OBJECTING TO PER
CAPITA SPLIT OF TECHNICAL
ADVISOR FEE**

TECHNOLOGY PROPERTIES LIMITED
LLC and MCM PORTFOLIO LLC,

Plaintiffs,

v.

HEWLETT-PACKARD COMPANY,

Defendant.

Civil Action No. 14-03643 CW

**DEFENDANTS' ADMINISTRATIVE
MOTION OBJECTING TO PER
CAPITA SPLIT OF TECHNICAL
ADVISOR FEE**

TECHNOLOGY PROPERTIES LIMITED
LLC and MCM PORTFOLIO LLC,

Plaintiffs,

v.

NEWEGG INC., et al.,

Defendants.

Civil Action No. 14-03645 CW

**DEFENDANTS' ADMINISTRATIVE
MOTION OBJECTING TO PER
CAPITA SPLIT OF TECHNICAL
ADVISOR FEE**

TECHNOLOGY PROPERTIES LIMITED
LLC and MCM PORTFOLIO LLC,

Plaintiffs,

v.

SEIKO EPSON CORPORATION., et al.,

Defendants.

Civil Action No. 14-03646 CW

**DEFENDANTS' ADMINISTRATIVE
MOTION OBJECTING TO PER
CAPITA SPLIT OF TECHNICAL
ADVISOR FEE**

TECHNOLOGY PROPERTIES LIMITED
LLC and MCM PORTFOLIO LLC,

Plaintiffs,

v.

SHUTTLE INC., et al.,

Defendants.

Civil Action No. 14-03647 CW

**DEFENDANTS' ADMINISTRATIVE
MOTION OBJECTING TO PER
CAPITA SPLIT OF TECHNICAL
ADVISOR FEE**

RELIEF SOUGHT

Pursuant to Civil Local Rule 7-11 and the Court's April 10, 2015 order, Defendants Canon Inc.; Canon U.S.A., Inc.; Shuttle Computer Group Inc.; Newegg Inc.; Rosewill Inc.; Falcon Northwest Computer Systems, Inc.; Seiko Epson Corporation; Epson America, Inc.; and Hewlett-Packard Company (collectively, "Defendants") seek a clarification that the fee of the technical advisor, Kwan Chan, appointed by the Court, should be allocated on a 50/50 basis between Plaintiffs and Defendants in accordance with the Court's November 19, 2014 proposal accepted by the Parties. Plaintiffs will not stipulate to the 50/50 split sought and have stated they will accept only a per capita fee split. (*See* Declaration of Gordon M. Fauth in Support of Defendants' Objection to Per Capita Fee Split ("Fauth Decl."), Ex. B.)

ARGUMENT

The split of the fee of the technical advisor between Plaintiffs and Defendants should be on a 50/50 basis both because that was the proposal by the Court, which the Parties accepted in agreeing to the appointment of a technical advisor, and also because it is an equitable split of the fee in these coordinated cases in which the Plaintiffs have separately sued each of the Defendants.

At the initial case management conference on November 19, 2014, the Court asked the Parties to agree to the appointment of a technical expert to advise the Court, proposing that the parties would pay "under some 50/50 arrangement...":

WHAT I PROPOSE TO DO IS HAVE YOU PAY HIM UNDER SOME 50/50 ARRANGEMENT OR SOMETHING LIKE THAT. YOU WOULD PUT A RETAINER IN HIS ACCOUNT AND HE WOULD ADVISE ME PRIVATELY ABOUT THE TECHNOLOGY. HE WOULDN'T BE A TESTIFYING EXPERT OR A REPORTING EXPERT OR ANYTHING ELSE, HE WOULD ADVISE ME PRIVATELY. SO THAT'S MY PROPOSAL ON THAT.

(*See* Fauth Decl., Ex. A, November 19, 2014, Case Management Conf. Tr., at 23:15-20.) It was on that basis that Defendants agreed to the Court's proposal. The Court's April 10, 2015 order appointing Mr. Chan stated "Each party shall bear the fees and costs of the Technical Advisor on a per capita basis..." Plaintiffs immediately seized on that language to repudiate the express

proposal of the Court at the case management conference for a 50/50 split, which the Parties, including Plaintiffs, had accepted, and now demand a per capita split. (*See* Fauth Decl., Ex. B.) Accordingly, the Parties respectfully request an order clarifying that, as it proposed, and as the Parties accepted, the fee of the technical advisor should be split on a 50/50 Plaintiffs/Defendants basis.

Also, a 50/50 split of the fee of the technical advisor is an equitable split. The Plaintiffs sued each of the Defendants in separate cases, which would argue for an even split between Plaintiffs and Defendants. Further, the cases have been partially coordinated to deal efficiently with the similar issues raised. The technical advisor will generally be looking at two sets of papers—one set for the Plaintiffs and one set for the Defendants. It would therefore be inequitable to allow Plaintiffs to pay less than a 50/50 split of the technical advisor's fee.

For all of the foregoing reasons, the Court should order that the fee of the technical advisor be allocated between Plaintiffs and Defendants on a 50/50 basis.

Respectfully submitted,

Dated: April 20, 2015

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Dated: April 20, 2015

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all counsel for all parties of record on April 20, 2015 via the Court's CM/ECF system.

/s/ Gordon M. Fauth